

-----In the Matter of -----)

PUBLIC UTILITIES COMMISSION ) DOCKET NO. 2018-0163

)

Instituting a Proceeding to )

Investigate Establishment of a )

Microgrid Services Tariff. )

)

DECISION AND ORDER NO. 37786

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PUBLIC UTILITIES COMMISSION ) DOCKET NO. 2018-0163

Instituting a Proceeding to ) DECISION AND ORDER NO. **37786**

Investigate Establishment of a )

Microgrid Services Tariff. )

By this Decision and Order, the Public Utilities Commission ("Commission") approves a Microgrid Services Tariff for HAWAIIAN ELECTRIC COMPANY, INC.; HAWAI'I ELECTRIC LIGHT COMPANY, INC.; and MAUI ELECTRIC COMPANY, LIMITED (collectively, "HECO Companies," "Companies," or "Hawaiian Electric"), as provided herein.

On July 10, 2018, the Governor signed into law House Bill 2110, H.D. 2, S.D. 2, 29th Leg. Reg. Sess. (2018) ("Act 200"), in which the Hawaii State Legislature, observing that "Hawaii's

residents and businesses are vulnerable to disruptions in the islands' energy systems caused by extreme weather events or other disasters[,]” thus concluded that “[m]icrogrids can provide valuable services to the public utility electricity grid, including energy storage and demand response, to support load shifting, frequency response, and voltage control, among other ancillary services[,]” and that “the use of microgrids would build energy resiliency into our communities, thereby increasing public safety and security.”<sup>1</sup>

Pursuant to Act 200, on July 10, 2018, the Commission opened Docket No. 2018-0163 to investigate the establishment of a microgrid services tariff for the HECO Companies.<sup>2</sup> Order No. 35566 named the HECO Companies and the DIVISION OF CONSUMER ADVOCACY (“Consumer Advocate”) as Parties to the proceeding.<sup>3</sup> Order No. 35566 also invited interested individuals and organizations to file motions to intervene or participate in

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<sup>1</sup>Act 200, Section 1.

<sup>2</sup>Order No. 35566, “Opening the Docket,” filed on July 10, 2018, at 1. Section 2 of Act 200 specifically exempts “municipal utility cooperatives,” which the Commission interprets to exempt Kauai Island Utility Cooperative from this proceeding.

<sup>3</sup>Order No. 35566 at 6; the Consumer Advocate is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes (“HRS”) § 269-51 and Hawaii Administrative Rules § 16-601-62(a).

this proceeding.<sup>4</sup> Eight movants filed motions to intervene: RENEWABLE ENERGY ACTION COALITION OF HAWAII, INC. ("REACH"); DISTRIBUTED ENERGY RESOURCES COUNCIL OF HAWAII ("DERC"); LIFE OF THE LAND ("LOL"); PUNA PONO ALLIANCE; the MICROGRID RESOURCES COALITION ("MRC"); ENERGY ISLAND; ENERGY FREEDOM COALITION OF AMERICA, LLC ("EFCA"); and ULUPONO INITIATIVE LLC ("ULUPONO") (collectively, "Movants").

B.

Order No. 35884

By Order No. 35884, "(1) Granting Motions to Intervene; (2) Scheduling Technical Conference; and (3) Setting Deadlines for Opening Briefs and Reply Briefs," filed on November 21, 2018 ("Order No. 35884"), the Commission granted intervention to all eight Movants.<sup>5</sup>

By Order No. 35884, the Commission also scheduled a technical conference for January 9, 2019, and set deadlines for the Parties' Opening Briefs and Reply Briefs. The Parties were furthermore directed to focus their technical conference presentations and their opening and reply briefs in answering

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<sup>4</sup>Order No. 35566 at 7.

<sup>5</sup>Order No. 35884 at 28.

various preliminary questions ("Preliminary Questions") set forth in Order No. 35884.

C.

January 9, 2019 Technical Conference

On January 9, 2019, the Commission hosted a technical conference, featuring: (1) presentations from microgrid project developers and other organizations with microgrid experience discussing past and ongoing experiences regarding development of microgrids in Hawaii, and (2) presentations from the Parties to this docket, specifically addressing the Preliminary Questions outlined in Order No. 35884.

D.

Order No. 36106<sup>6</sup>

On January 22, 2019, the Commission issued Order No. 36106, which, based on presentations and discussion at the January 9, 2019 Technical Conference: (1) provided additional guidance to the Parties regarding the Preliminary Questions to be answered in the Opening Briefs, and (2) based on discussion at the January 9, 2019 Technical Conference, extended the deadline

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<sup>6</sup>Order No. 36106, "(1) Providing Additional Guidance for Opening Briefs, and (2) Extending Deadline for Reply Briefs," filed on January 22, 2019 ("Order No. 36106").

for Parties to file Reply Briefs from February 22, 2019, to March 11, 2019.

E.

Parties' Briefs

On February 8, 2019, the HECO Companies, the Consumer Advocate, DERC, EFCA, MRC, and Ulupono filed their opening briefs. In addition, Energy Island, LOL, and Puna Pono Alliance jointly filed an opening brief.

On March 11, 2019, the HECO Companies, the Consumer Advocate, and EFCA filed reply briefs. In addition, Ulupono, DERC, Energy Island, LOL, Puna Pono Alliance, and MRC filed a joint reply brief, and MRC filed a separate supplemental reply brief.

F.

REACH's Motion to Withdraw

On February 8, 2019, REACH filed a Motion to Withdraw from this docket. On March 22, 2019, the Commission issued Order No. 36224, granting REACH's Motion to Withdraw and dismissing REACH from this proceeding.<sup>7</sup>

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<sup>7</sup>Order No. 36224, "Granting Renewable Energy Action Coalition of Hawaii, Inc.'s Motion to Withdraw," filed on March 22, 2019, at 7.

Therefore, effective March 22, 2019, REACH was no longer a party to this proceeding.

G.

Order No. 36481<sup>8</sup>

On August 20, 2019, the Commission issued Order No. 36481, which: (1) prioritized items for resolution in this docket and (2) made determinations on issues raised by the Preliminary Questions in Order No. 35884. In particular, Order No. 36481 directed the Parties to organize into two working groups -- (1) a Market Facilitation Working Group and (2) an Interconnection Standards Working Group (collectively, "Working Groups")<sup>9</sup> -- to address the issues identified and discussed in Order No. 36481.

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<sup>8</sup>Order No. 36481, "(1) Prioritizing Items for Resolution in this Docket and (2) Making Determinations on Issues Raised by the Preliminary Questions In Order No. 35884," filed on August 20, 2019 ("Order No. 36481").

<sup>9</sup>The Working Groups ultimately combined their work "due to the overlap of identified topics that needed to be addressed and the individuals involved in the Working Groups." "Working Group Report," filed on February 14, 2020, at PDF page 4.

H.

Order No. 36514<sup>10</sup>

On September 12, 2019, the Commission issued Order No. 36514, which established a procedural schedule for the remainder of the docket, including Status Conferences with the Commission in November 2019 and January 2020.<sup>11</sup> Order No. 36514 also provided additional guidance for the Working Groups process.

I.

September 19, 2019 Technical Conference

On September 19, 2019, the Commission hosted a technical conference, during which: (1) Commission staff reviewed the priority items from Order No. 36481 and the Working Group process and (2) the Working Groups provided an update on their progress. Conference attendees also participated in directed discussion.

J.

Puna Pono Alliance's Request to Withdraw from the Proceedings and EFCA's Motion to Withdraw

On September 19, 2019, Puna Pono Alliance filed a Request to Withdraw from the Proceedings, and (2) on September 25, 2019,

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<sup>10</sup>Order No. 36514, "Establishing a Procedural Schedule," filed on September 12, 2019 ("Order No. 36514").

<sup>11</sup>Order No. 36514 at 9.

EFCA filed a Motion to Withdraw from this docket. On November 13, 2019, the Commission issued Order No. 36755, granting both Puna Pono Alliance's Request to Withdraw from the Proceedings and EFCA's Motion to Withdraw, and dismissing both Puna Pono Alliance and EFCA from this proceeding.<sup>12</sup> Therefore, effective November 13, 2019, Puna Pono Alliance and EFCA were no longer parties to this proceeding.

K.

November 14, 2019 Status Conference

On November 14, 2019, the Commission hosted a Status Conference with the Parties, during which the Working Groups provided an update on their progress toward developing the Microgrid Services Tariff and the Commission asked clarifying questions.

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<sup>12</sup>Order No. 36755, "(1) Granting Puna Pono Alliance's Request to Withdraw from the Proceedings, and (2) Granting Energy Freedom Coalition of America, LLC's Motion to Withdraw," filed on November 13, 2019, at 7-8, Ordering Paragraph Nos. 1 and 2.



L.

January 9, 2020 Status Conference

On January 9, 2020, the Commission hosted a Status Conference with the Parties to discuss the Working Groups' progress toward developing the Microgrid Services Tariff.

M.

Commission's January 16, 2020 Guidance Letter

On January 16, 2020, the Commission issued a letter to the Parties, providing guidance on various matters raised in the Working Group's presentation materials from the January 9, 2020 Status Conference.<sup>13</sup>

N.

Working Group's February 14, 2020 Report and MRC's Response

On February 14, 2020, in accordance with Order No. 36514, the Working Group filed a Report, to which were attached: (1) the proposed Microgrid Services Tariff; (2) proposed language

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<sup>13</sup>Letter From: Commission To: Service List Re: Microgrid Working Group Status Update - Commission Guidance, In re Public Utilities Commission, Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on January 16, 2020 ("Commission's January 16, 2020 Guidance Letter").

to be inserted into Rule 14H; and (3) proposed language to be inserted into Rule 24 (Customer Grid Supply Plus).

On February 21, 2020, MRC filed a letter in response to the Working Group Report filed February 14, 2020, discussing various concerns not reflected in the Working Group Report and clarifying MRC's "unresolved comment" noted in the Working Group Report filed on February 14, 2020.<sup>14</sup> MRC's letter also requested "that the Commission direct the working group to eliminate any general ability for the Company to direct microgrid islanding without compensation and to generally permit microgrids to go into island mode without extensive delays when it suits their operational needs."<sup>15</sup>

O.

LOL's February 18, 2020 Motion to Withdraw

On February 18, 2020, LOL filed a Motion to Withdraw from this docket. On March 9, 2020, the Commission issued Order No. 37034, granting LOL's Motion to Withdraw and dismissing

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<sup>14</sup>Letter From: C. Brown To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff; Response to Working Group Report of Microgrid Resources Coalition, filed on February 21, 2020 ("MRC's February 21, 2020 Letter").

<sup>15</sup>MRC's February 21, 2020 Letter at 3-4.

LOL from this proceeding.<sup>16</sup> Therefore, effective March 9, 2020, LOL was no longer a party to this proceeding.

P.

February 27, 2020 Technical Conference

On February 27, 2020, the Commission held a Technical Conference to discuss the Working Group's Report filed on February 14, 2020, during which the Working Group presented its Report and provided status updates, attendees participated in directed discussion, the Commission asked various questions, and identified next steps.

Q.

The HECO Companies' Draft Tariff filed March 30, 2020

On March 30, 2020, Hawaiian Electric submitted a draft Microgrid Services Tariff; included as Appendices I and II, respectively, to the Tariff were a Hybrid Microgrid Operator Disclosure Checklist and Hybrid Microgrid Interconnection Agreement. In addition, Hawaiian Electric also submitted draft modifications to Hawaiian Electric's Rule No. 24 and a matrix "identifying the sections in the various existing DER tariffs

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<sup>16</sup>Order No. 37034, "Granting Life of the Land's Motion to Withdraw," filed on March 9, 2020, at 6.

that the Company's Draft modifications (if accepted) would be reflected."<sup>17</sup>

R.

Parties' April 27, 2020 Comments on  
the March 30, 2020 Draft Tariff

On April 27, 2020, MRC, Ulupono, and the Consumer Advocate filed comments and proposed revisions to the Companies' draft Tariff and updates.

S.

November 2020 Letters from the Commission

On November 10, 2020, the Commission issued a Notice notifying Parties that it would convene a Technical Conference for November 30, 2020, to discuss Hawaiian Electric's Draft Microgrid Services Tariff and related documents filed on March 30, 2020.

On November 24, 2020, the Commission issued the agenda and meeting information for the November 30, 2020 Technical Conference. Among other items for discussion, the Conference agenda identified various topics and sections of the draft Tariff for focused discussion.

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<sup>17</sup>"Hawaiian Electric's Transmittal of a Draft Microgrid Services Tariff," filed on March 30, 2020, at 1.

On November 27, 2020, to facilitate discussion for the November 30, 2020 Technical Conference, the Commission filed and e-mailed to the Parties the Commission's proposed redlines to Hawaiian Electric's Draft Microgrid Services Tariff and related documents.<sup>18</sup>

T.

November 30, 2020 Technical Conference

On November 30, 2020, the Commission held a Technical Conference and facilitated discussion on the Draft Microgrid Tariff, the Draft Hybrid Microgrid Interconnection Agreement (Appendix II), and Revisions to Rule 24 and other existing DER Programs for Customer and Hybrid Microgrids.

U.

December 10, 2020 Guidance Letter from  
the Commission, Re-Convening of Working Group, and Working  
Group's Submission of Draft Tariff and Related Documents

On December 10, 2020, the Commission issued a Guidance Letter, "acknowledg[ing] that the Draft Tariff and

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<sup>18</sup>Letter From: Commission To: Service List Re: Pre-Read Material for Technical Conference on Monday, November 30, 2020; Docket No. 2018-0163, In re Public Utilities Commission, Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on November 27, 2020 ("Commission's November 27, 2020 Proposed Redlines").

accompanying documents are very close to completion" and requesting that the Parties "reconvene the Working Group as often as necessary to work collaboratively to deliver a final Draft Tariff, revised Hybrid Microgrid Operator Disclosure Checklist (if necessary), revised Hybrid Microgrid Operator Interconnection Agreement, and revised Rules within **forty-five (45) days** of issuance of this letter."<sup>19</sup> The Commission further requested "that the Parties jointly file the revised documents by **Monday, January 25, 2021**" and that, "[f]or areas of disagreement, . . . that the Parties individually file alternative redlines with supporting arguments."<sup>20</sup>

Subsequently, the Working Group convened on December 21, 2020; January 5, 2021; January 11, 2021; January 14, 2021; January 20, 2021, and January 21, 2021.<sup>21</sup>

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<sup>19</sup>Letter From: Commission To: Service List Re: Commission Guidance, In re Public Utilities Commission, Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on December 10, 2020 ("Commission's December 10, 2020 Guidance Letter"), at 1 (emphasis in original).

<sup>20</sup>Commission's December 10, 2020 Guidance Letter at 1.

<sup>21</sup>See Working Group's February 1, 2021 Transmittal, Attachment 4 (Working Group's meeting presentations and minutes); Letter From: Consumer Advocate To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on January 21, 2021 ("Consumer Advocate's January 21, 2021 Letter"), at 1.

On January 21, 2021, the Consumer Advocate filed a letter requesting to modify the procedural schedule for all Parties; Hawaiian Electric, DERC, MRC, Ulupono, and the Consumer Advocate supported the request.<sup>22</sup> By letter filed on January 22, 2021, the Commission approved the suggested revisions to the schedule, as proposed in the Consumer Advocate's January 21, 2021 letter request. As such, the new filing deadlines were set as follows:<sup>23</sup>

Filing on areas of consensus and associated revisions of the red-lines to the Microgrid Services Draft Tariff and other related documents	February 1, 2021
Parties' filings on the areas of disagreement and associated revisions of the red-lines of the Microgrid Services Draft Tariff and other related documents	February 10, 2021
Parties' comments to address other Parties' areas of disagreement and associated revisions of the red-lines of the Microgrid Services Draft Tariff and other related documents	February 17, 2021

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<sup>22</sup>Consumer Advocate's January 21, 2021 Letter at 2. The Consumer Advocate explained that Energy Island, the remaining party, "was notified of the request but [had] not responded" at that time. Id. at 2 n.2.

<sup>23</sup>Letter From: Commission To: Service List Re: Parties' January 21, 2021 Letter Request to Modify Deadlines, In re Public Utilities Commission, Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on January 22, 2021, at 3.

On February 1, 2021, the Working Group, through its Co-Chairs (representatives of the HECO Companies and the Consumer Advocate), submitted a Draft Microgrid Services Tariff and related documents.<sup>24</sup> The Working Group's Transmittal included its agreed-upon edits to the Companies' Draft Microgrid Services Tariff and agreed-upon edits to Appendix II, Microgrid Services Tariff - Hybrid Microgrid Agreement.<sup>25</sup>

On February 10, 2021, Hawaiian Electric, the Consumer Advocate, and MRC each submitted its respective areas of disagreement on the Draft Microgrid Services Tariff and related documents, along with associated red-lines.<sup>26</sup> None of the other remaining Parties submitted comments.

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<sup>24</sup>Joint Letter From: M. Chang, K. Aramaki, and M. Asano To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff; Transmittal of a Draft Microgrid Services Tariff, filed on February 1, 2021 ("Working Group's February 1, 2021 Transmittal").

<sup>25</sup>Working Group's February 1, 2021 Transmittal, Attachment 1 and Attachment 2, respectively.

<sup>26</sup>"The Companies' Comments to the Working Group Areas of Disagreements," filed on February 10, 2021 ("Companies' February 10, 2021 Comments on Areas of Disagreements"); Letter From: Consumer Advocate To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on February 10, 2021 ("Consumer Advocate's February 10, 2021 Comments"); and "Comments of Microgrid Resources Coalition on Hawaiian Electric's Transmittal of a Draft Microgrid Services Tariff," filed on February 10, 2021 ("MRC's February 10, 2021 Comments on the Draft Tariff").



On February 17, 2021, the Companies submitted responses to MRC and the Consumer Advocate's comments filed on February 10, 2021;<sup>27</sup> the Consumer Advocate submitted comments addressing the other Parties' areas of disagreement on the Draft Microgrid Services Tariff, related documents, and associated red-lines;<sup>28</sup> and MRC submitted comments on the Consumer Advocate's proposed Hybrid Microgrid Operator Disclosure Checklist submitted on February 10, 2021;<sup>29</sup> specifically, MRC requested "that the Commission hold the checklist in abeyance for further discussion and revisions."<sup>30</sup> The other Parties did not submit comments.

On March 29 and March 31, 2021, the Commission issued Information Requests ("IRs") to the Parties. On April 12 and 14, 2021, MRC, the Companies, and the Consumer Advocate

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<sup>27</sup>"The Companies' Response to the Parties' Comments," filed on February 17, 2021 ("Companies' February 17, 2021 Response to Parties' Comments").

<sup>28</sup>Letter From: Consumer Advocate To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff, filed on February 17, 2021 ("Consumer Advocate's February 17, 2021 Comments").

<sup>29</sup>"Comments of Microgrid Resources Coalition on Division of Consumer Advocacy Hybrid Microgrid Operator Disclosure Checklist," filed on February 17, 2021 ("MRC's February 17, 2021 Comments on the Disclosure Checklist"); Exhibit A.

<sup>30</sup>MRC's February 17, 2021 Comments on the Disclosure Checklist at 5.

submitted responses to the Commission's IRs. No other Parties submitted responses to the Commission's IRs.

V.

Public Comments

Two public comments have been filed in this proceeding to date.

The first Public Comment filed on August 13, 2018, contained a letter from Mr. Peter Fox-Penner, Director of the Institute for Sustainable Energy at Boston University, requesting inclusion into the docket's service list in order to be able to "stay abreast of the proceeding" due to "[Mr. Fox-Penner's] interest as a researcher."<sup>31</sup> Commission staff responded to Mr. Fox-Penner's request via e-mail on August 13, 2018.

The second public comment filed on September 11, 2018, expressed support for the Microgrid Services Tariff and urges the Commission to "creat[e] a rule that provides a fair export tariff for all renewable energy generators."<sup>32</sup>

The Commission appreciates the commenters' interest and feedback regarding this proceeding.

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<sup>31</sup>Public Comment, filed on August 13, 2018, at 2.

<sup>32</sup>Public Comment, filed on September 11, 2018, at 2.

## II.

### DISCUSSION

Here, the Commission discusses, in turn, the sections and provisions of the Tariff and related documents that were identified by the Working Group as open items that “[o]ne or more of the Parties[] may address[,]”<sup>33</sup> and sets forth the Commission’s determinations on these sections and provisions. The Commission also discusses various other topics in addition to those proposed by the Parties and sets forth corresponding determinations and modifications on those topics.

In addition, the Commission discusses the proposed modifications to Hawaiian Electric’s DER Rules.

#### A.

##### Tariff

##### 1.

##### Section B.4, Availability

The Working Group identified this section as an open item.<sup>34</sup> Throughout this proceeding, MRC has proposed adding “a companion provision section B.4.b[,]” and, in its

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<sup>33</sup>Working Group’s February 1, 2021 Transmittal at 4 n.7.

<sup>34</sup>Working Group’s February 1, 2021 Transmittal at 4.

February 10, 2021 Comments on the Draft Tariff, proposes addition of the following language:

(b) The Company shall not exclude a Customer Microgrid from eligibility for any Rule or Program of the Company based on the ownership structure of the Customer Microgrid or ownership of the included generating or storage resources. In particular, any requirement that a generating or storage resource be located on a Customer's Premises may be satisfied by any ownership, lease or easement interest in Premises or any portion thereof including any building, structure or appurtenance thereon or any portion of or unit within any such building, structure or appurtenance; and any requirement that a Customer own or lease a generating or storage resource may be satisfied by an agreement that gives the Customer the right to purchase the [sic] all or a portion of the output of or have the beneficial use of all or a portion of such generating or storage resource.<sup>35</sup>

MRC asserts that including this proposed language will ensure that microgrids of all ownership structures will not be excluded from eligibility for the HECO Companies' Rules and Programs.<sup>36</sup>

The Companies contend that MRC's proposed language, "[i]n essence, . . . embrace[s] cross subsidization of microgrids for the benefit of Microgrid developers to the detriment of the Companies' customers" and "is extremely overbroad and should not

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<sup>35</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 4-5.

<sup>36</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 5-7.

be adopted on this basis alone.”<sup>37</sup> Rather, the Companies contend that “it would be more prudent for MRC’s proposed pre-emptive exceptions to be considered in the DER docket.”<sup>38</sup> Additionally, the Companies argue that:

Customer Microgrid Operators (developers)  
. . . have avenues for compensation through participation in DER programs (by following the same application procedure as all other potential participants or, if necessary, seeking to modify program rules within the DER docket itself rather than through a separate proceeding) and through private agreements with Customer Microgrid participants, and/or other third parties.<sup>39</sup>

The Consumer Advocate states that, “[it] does not believe that MRC’s proposed addition should be included in the Draft Tariff at this time,” and it is unclear to the Consumer Advocate whether reasons for MRC’s concern exist.<sup>40</sup> The Consumer Advocate contends that “there are existing Customer Microgrids and systems interconnected currently on the Companies’ systems” and that “further consideration of MRC’s language should include additional discussion and vetting with other parties, such as in Docket No. 2019-0323, to ensure that the

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<sup>37</sup>Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 4.

<sup>38</sup>Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 4.

<sup>39</sup>Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 4.

<sup>40</sup>Consumer Advocate’s February 17, 2021 Comments at 4.

proposed addition to Section 4.b. does not have any unintended impacts.”<sup>41</sup> In addition, the Consumer Advocate contends “that the compensation for export, as well as applicable energy supplied from the Generating Facility associated with Rule Nos. 22 through 25 and 27, are provided as credits to the Eligible Customer-Generator’s electric utility bill” and thus, “[t]o the extent that MRC is concerned that the microgrid operator is not the customer and may be akin to the landlord, MRC’s proposed addition would not convey the bill credits to the microgrid operator.”<sup>42</sup>

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<sup>41</sup>Consumer Advocate’s February 17, 2021 Comments at 4.

<sup>42</sup>Consumer Advocate’s February 17, 2021 Comments at 4 (citation omitted). “Eligible Customer-Generator” is defined as:

[A] metered residential or commercial customer, including a government entity, of an electric utility who owns and operates a solar, wind turbine, biomass, or hydroelectric energy generating facility, or a hybrid system consisting of two or more of these facilities, that is:

- (1) Located on the customer’s premises;
- (2) Operated in parallel with the utility’s transmission and distribution facilities;
- (3) In conformance with the utility’s interconnection requirements; and
- (4) Intended primarily to offset part or all of the customer’s own electrical requirements.

HRS § 269-101.

Upon review of the record, the Commission, at this time, declines to adopt MRC's proposed additional language to Section B.4 of the Tariff. The Commission supports postponement of addressing this issue to the next phase of the proceeding, as discussed below.

2.

Section E, Billing and Compensation

Related to Section B.4, the Working Group identified Section E of the Tariff (Billing and Compensation) as an open item.<sup>43</sup> In MRC's February 10, 2021 Comments on the Draft Tariff, MRC states that, while it "does not have any objection to the existing language in Section E[,]"<sup>44</sup> it proposes adding a provision entitled "Operator Supplied Hybrid Microgrids" as follows:<sup>45</sup>

**Operator Supplied Hybrid Microgrids.**

- a. For the Microgrid Operator and all Microgrid Participants in an Operator Supplied Hybrid Microgrid, all applicable energy credit rates and compensation will apply during Grid-Connected Mode and Island Mode except that electric energy will be supplied to and paid for by the Company and billed to Microgrid Participants as specifically provided in Section E.3.c.

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<sup>43</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>44</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 7.

<sup>45</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 7 (bold font in original).

- b. Any Generating Facility with an appropriate Customer Interconnection Agreement executed with the Company and supplying energy to a Hybrid Microgrid during Island Mode, and without an existing means for compensation by the utility (e.g., PPA, tariff) or the Microgrid Operator, shall be compensated by Energy Credit Rates as defined and outlined in Rule No. 24.
- c. For an Operator Supplied Hybrid Microgrid, Microgrid Participants shall be billed monthly by the Company for (i) the portion of the energy supplied to the Microgrid Participant by the Company, in accordance with Rule No. 8, the applicable rate schedule, and Company's rules filed with the Commission, and (ii) the portion of the energy supplied to the Microgrid Participant by the Microgrid Operator, in accordance with the agreement executed by the Microgrid Operator and the Microgrid Participant. The Company thereafter shall pay the Microgrid Operator for the portion of the energy supplied by the Microgrid Operator at the rate charged by the Microgrid Operator to the Customers.

MRC "put[s] forward this proposal because [it] do[es] not believe that the hybrid microgrid provisions of the Draft Tariff represent a serious effort to attract interest in hybrid microgrids" and contends that its proposed language "would continue the customer relationship of each Participant with the Company" and "assure that all wires charges (both as to Company costs and public benefits). . . are still paid by the customers."<sup>46</sup>

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<sup>46</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 8.



In the Companies' February 17, 2021 Response to Parties' Comments, the Companies contend that: (1) MRC's proposal "is outside the scope of this part of the proceeding," as set forth in Commission staff's verbal guidance during Working Group meetings;<sup>47</sup> and (2) MRC's proposal "raises a number of critical concerns/issues."<sup>48</sup> For example, the Companies contend that "MRC's proposal would significantly burden non-microgrid-participating customers while leaving the Companies with the obligation to serve the Microgrid Participants anytime the Microgrid Operator cannot serve its customers"<sup>49</sup>; that MRC's proposal "forces customers within the electrical boundary of a Hybrid Microgrid to take service from the Microgrid Operator"<sup>50</sup>; and that MRC's proposal highlights a "fundamental disagreement between the Companies and MRC" in that the Companies believe that resilience is a primary benefit, not a side benefit, of developing the

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<sup>47</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 5.

<sup>48</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 5.

<sup>49</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 6.

<sup>50</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 6.

Microgrid Services Tariff.<sup>51</sup> Furthermore, the Companies express skepticism that “issues with microgrid compensation and development” exist to the extent that MRC claims, and note that “Hawai’i DER developers that are a party to this docket” have not offered comments about microgrid compensation and development.<sup>52</sup>

Likewise, the Consumer Advocate recommends that “additional discussion will be needed to address several issues with MRC’s proposed compensation mechanism . . . .”<sup>53</sup> With respect to MRC’s proposed definition of a Company Supplied Hybrid Microgrid, the Consumer Advocate states that the proposed definition:

[W]ould need to be revised to recognize that in Island Mode, under the Draft Tariff, the “Microgrid is generating or producing energy to provide electric service within the Microgrid under the operational coordination of the Microgrid Operator.” As such, in Island Mode, the electric energy supplied to Microgrid Participants is supplied by the Hybrid Microgrid Operator.<sup>54</sup>

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<sup>51</sup>Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 7 (citing MRC’s February 10, 2021 Comments on the Draft Tariff at 8).

<sup>52</sup>Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 7 (citing MRC’s February 10, 2021 Comments on the Draft Tariff at 8).

<sup>53</sup>Consumer Advocate’s February 17, 2021 Comments at 6.

<sup>54</sup>Consumer Advocate’s February 17, 2021 Comments at 6 (underline in original).

With respect to MRC's proposed "Operator Supplied Hybrid Microgrid," the Consumer Advocate contends that "additional discussion would be necessary to address such issues as whether such an operation is reasonable for all ratepayers and not just for the benefit of the Microgrid Participants."<sup>55</sup>

The Commission notes that, during the Technical Conferences in this proceeding and throughout the Working Group process, it was generally agreed that customer microgrids would receive benefits from the prevailing DER programs, whereas Hybrid Microgrids would receive such benefits only when they were transacting with the utility, which is not the case at this juncture.

Thus, the Commission believes that MRC's proposed additions to Section E of the Tariff are premature and therefore, at this time, declines to accept MRC's proposed addition. The Commission accepts the provisions of the Draft Tariff allowing wheeling, with no direct compensation.

Consideration of this topic should be continued in the next phase of this proceeding, as set forth below.

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<sup>55</sup>Consumer Advocate's February 17, 2021 Comments at 6.

a.

Standby Charge for Customer Microgrids

Section E.5 of the Draft Tariff submitted with the Working Group's February 1, 2021 Transmittal requires that "Customer Microgrids shall be subject to Schedule SS (Standby Service), as modified from time to time."<sup>56</sup>

In the Commission's November 27, 2020 Proposed Redlines to the Companies' initial Draft Tariff submitted on March 30, 2020, the Commission had suggested removing this provision, along with other related language.<sup>57</sup>

In the Companies' February 10, 2021 Comments on Areas of Disagreement, the Companies assert that including such language "clarifies the ability for Customer Microgrids to Island at the Microgrid Operator's discretion, leaving the potential for the grid to be used as a backup source to the microgrid[.]"<sup>58</sup> The Companies assert that in such a situation, "costs to non-participating customers" would increase:

[B]ecause the Companies would need to plan to serve microgrid customer loads any time the microgrid does not have sufficient resources to serve its own

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<sup>56</sup>Working Group's February 1, 2021 Transmittal, Attachment 1 at 9.

<sup>57</sup>See Commission's November 27, 2020 Proposed Redlines, Microgrid Services Tariff, Section E (Billing and Compensation), Paragraph 4, at PDF page 10.

<sup>58</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 12.

customer's load, while at the same time, the microgrid customer avoids the cost of those services when the microgrid is actively supplying power to its load.<sup>59</sup>

However, MRC contends that standby charges are "already covered by Sections B.4. and E.1." of the Working Group's proposed Draft Tariff and that "standby charges for microgrids should be separately considered based on their unique operating characteristics."<sup>60</sup>

In its responses to the Parties' February 10, 2021 comments, the Companies "do not agree Schedule SS (Standby Service) is sufficiently covered in Sections B.4 and E.1, and seek to clarify such responsibilities to potential developers upfront."<sup>61</sup> The Companies further explain that they included this provision "to provide a fair mechanism for Customer Microgrids to have the ability to go into Unscheduled Island Mode" and that "[t]he intent of Schedule SS is to cover systems which rely on the Utility to provide a backup should the primary (non-utility) source of power go offline."<sup>62</sup>

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<sup>59</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 12.

<sup>60</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 11-12.

<sup>61</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 15.

<sup>62</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 15.

The Consumer Advocate "does not object to the addition of the term and condition related to the applicability of Schedule SS (Standby Service)[.]"<sup>63</sup> The Consumer Advocate also reiterates its earlier comments that "further review will be necessary to determine whether the terms and conditions of Schedule SS adequately ensure that non-participating customers will not be inadvertently harmed by subsidizing costs for standby service to microgrid operations that depend on the Company's systems for back up service to the microgrid" and that "this issue . . . is beyond the initial scope" of the Tariff.<sup>64</sup>

Upon further review of Section E of the Tariff (Billing and Compensation), the Commission concludes that it is not necessary to include a Standby charge in the Tariff at this time. Standby charges would apply only to customers who rely on alternate sources of energy other than electricity from the Companies, whereas Customer Microgrids, as customers of the Companies, would rely only on the Companies as their primary source

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<sup>63</sup>Consumer Advocate's February 17, 2021 Comments at 9.

<sup>64</sup>Consumer Advocate's February 17, 2021 Comments at 9-10 (citing Letter From: Consumer Advocate To: Commission Re: Docket No. 2018-0163 - Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff; Comments on and Proposed Revisions to Draft Microgrid Services Tariff and Rule 14H Updates, filed on April 27, 2020, at 6 ("Consumer Advocate's April 27, 2020 Comments"). The Commission notes that the Consumer Advocate's reference to its August 27, 2020 comments is a typo.

of energy.<sup>65</sup> Moreover, a Standby Service charge is not necessary at this time because coordination would be required between the Companies and the Microgrid Operator in order to allow the Microgrid to Island or Return to Service. Therefore, at this time, the Commission deletes language making Customer Microgrids subject to standby charges, as follows:

~~5. Customer Microgrids shall be subject to Schedule SS (Standby Service), as modified from time to time.~~

3.

Sections C.1 and C.2, Responsibilities Among the Parties

The Working Group identified these sections as open items,<sup>66</sup> and the Companies anticipated that "a Working Group member may propose revisions or comments on this provision."<sup>67</sup> The Companies state that "existing Sections C.1. and C.2., as set forth in the Proposed Tariff, are acceptable and the Companies do not recommend any modifications."<sup>68</sup> MRC "accepts [Sections C.1

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<sup>65</sup>See Schedule SS, Section A (Applicability), available at [https://www.hawaiianelectric.com/documents/billing\\_and\\_payment/rates/hawaiian\\_electric\\_rates/heco\\_rates\\_sch\\_ss.pdf](https://www.hawaiianelectric.com/documents/billing_and_payment/rates/hawaiian_electric_rates/heco_rates_sch_ss.pdf).

<sup>66</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>67</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 13.

<sup>68</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 10.

and C.2 of the Draft Tariff] as it stands.”<sup>69</sup> No other Parties provided comments about this section. Upon review and based on the above, the Commission accepts these sections of the Draft Tariff as submitted by the Working Group on February 1, 2021.

4.

Section D.2, Interconnection

The Working Group identified this section as an open item.<sup>70</sup> In their respective comments on areas of disagreement: (1) the Consumer Advocate states that, “as identified in other programs, especially considering that the establishment of Hybrid Microgrids is new, the Consumer Advocate does not object to the size limits and program caps identified in Section[] D.2 . . . of the Draft Tariff”<sup>71</sup>; and (2) MRC states that it “does not take a position on this provision.”<sup>72</sup>

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<sup>69</sup>MRC’s February 10, 2021 Comments on Draft Tariff at 7.

<sup>70</sup>Working Group’s February 1, 2021 Transmittal at 4.

<sup>71</sup>Consumer Advocate’s February 17, 2021 Comments at 10.

<sup>72</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 7.



In the Companies' February 10, 2021 Comments on Areas of Disagreements, the Companies propose revising the Working Group's agreed-upon language in Section D.2 as follows:<sup>73</sup>

The Total Peak Demand for Hybrid Microgrids utilizing the Hybrid Microgrid Agreement included in Appendix II~~The Total Rated Capacity of the Hybrid Microgrid~~ cannot exceed 3 MW (AC) on Oahu, 1 MW (AC) on Maui Island, 0.5 MW on Moloka'i, 0.5 MW on Lana'i, or 1 MW (AC) on Hawaii Island. ~~A Microgrid with Generating Facilities with a Total Rated Capacity~~Peak Demand greater than the specified limits are not eligible under this tariff.

The Companies' proposed revision also includes a corresponding footnote number 2, stating: "Hybrid Microgrids with a Total Peak Demand greater than the specified limits may be proposed to the Utility for Public Utilities Commission approval. Generating resources and development of such projects may require Power Purchase Agreements."<sup>74</sup>

The Companies assert that this proposed revision "allows for the development of Hybrid Microgrids with aggregate generating resources greater than 3 MW to be built provided that the Total Peak Demand within the microgrid boundary cannot

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<sup>73</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A-1 at 6. The Companies' proposed insertions are underlined, and proposed deletions are struck through.

<sup>74</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A-1 at 6 n.2.

exceed 3 MW.”<sup>75</sup> The Companies also assert that “[t]he project limits for Moloka‘i and Lana‘i are consistent with limits used in the Phase 1 CBRE Tariff.”<sup>76</sup>

In conjunction with the Companies’ proposed revision to Section D.2, the Companies propose adding a definition of “Total Peak Demand” to Section A.1 of the Draft Tariff, as follows: “‘Total Peak Demand’ means the peak demand (MW) in the previous 12-months as measured by the Company, or as estimated by the Company where actual measurements are not available.”<sup>77</sup>

Upon review, the Commission accepts the Companies’ proposed revisions to Sections A.1 and D.2 of the Draft Tariff. The Companies’ proposed revisions would allow applicability of the Microgrid Services Tariff to expand to Molokai and Lanai. Thus, Section A.1 of the Draft Tariff shall include the Companies’ proposed definition of “Total Peak Demand,” and Section D.2 of the Draft Tariff shall incorporate the Companies’ proposed revision to read as follows:<sup>78</sup>

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<sup>75</sup>Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A at 10.

<sup>76</sup>Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A at 10.

<sup>77</sup>Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A-1 at 4.

<sup>78</sup>See Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A-1 at 6.

The Total Peak Demand for Hybrid Microgrids utilizing the Hybrid Microgrid Agreement included in Appendix II cannot exceed 3 MW (AC) on Oahu, 1 MW (AC) on Maui Island, 0.5 MW on Moloka'i, 0.5 MW on Lana'i, or 1 MW (AC) on Hawaii Island. A Microgrid with a Total Peak Demand greater than the specified limits are not eligible under this tariff.

Furthermore, the Commission also accepts the Companies' proposed revised footnote 2.

5.

Section I, Hybrid Microgrid Capacity Allocation

Section I.2 of the Working Group's proposed Tariff establishes a program cap "based on the aggregated Total Rated Capacity of all Hybrid Microgrids with executed Interconnection Agreements of up to 6 MW on Oahu; 1 MW on Hawaii Island; and 1 MW on Maui Island . . . ." <sup>79</sup>

In the Commission's November 27, 2020 Proposed Redlines and at the November 30, 2020 Technical Conference, the Commission had asked what the basis was for the Microgrid Services Tariff program cap.<sup>80</sup> Subsequently, in the Commission's December 10, 2020

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<sup>79</sup>Working Group's February 1, 2021 Transmittal, Attachment 1 at 13. Paragraph I.2 of the Tariff limits the HECO Companies' acceptance of Hybrid Microgrid Applications to three years from the effective date of the Tariff, or until the program cap is reached, whichever comes first. Id.

<sup>80</sup>See Commission's November 27, 2020 Proposed Redlines, Microgrid Services Tariff, Section I (Hybrid Microgrid Capacity

Guidance Letter, the Commission advised the Parties to "evaluate the impacts of increasing (or altogether eliminating) proposed project caps and program caps for all islands" and to "discuss inclusion of Molokai and Lanai and propose corresponding project caps and program caps for those islands, if necessary."<sup>81</sup>

In the Working Group's February 1, 2021 Transmittal, the Working Group comments that "[i]ssues with the proposed Tariff Program Cap were not raised by the Working Group."<sup>82</sup>

In the Companies' February 10, 2021 Comments on Areas of Disagreement, the Companies explain that they "support the inclusion of this capacity limit in order to ensure a checkpoint is in place to allow for improvements or adjustments in the [T]ariff should there be a significant uptake in the program."<sup>83</sup> The Companies also propose the following edits to paragraph I.2. of the Working Group's agreed-upon Tariff:<sup>84</sup>

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Allocation), at PDF page 13; Microgrid Services Tariff Technical Conference (Commission's Presentation Slides), filed on November 30, 2020, at 12.

<sup>81</sup>Commission's December 10, 2020 Guidance Letter at 5.

<sup>82</sup>Working Group's February 1, 2021 Transmittal at 3.

<sup>83</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 12.

<sup>84</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A-1 at 12. The Companies' proposed insertions are underlined, and proposed deletions are struck through.

2. The Company shall accept Hybrid Microgrid Applications for a period of three years from the effective date of this Tariff, or until a program limit based on the aggregated Total ~~Rated Capacity~~ Peak Demand of all Hybrid Microgrids with executed Interconnection Agreements of up to 6 MW on Oahu; 1 MW on Hawaii Island; 1 MW on Maui Island; 0.5 MW on Moloka'i; 0.5 MW on Lana'i is reached, whichever comes first, or as required by Commission Order.

The Companies explain that their proposed redlines would "clarify that the program capacity is based on the Total Peak Demand of Hybrid Microgrid applications[] and includes limits for Moloka'i and Lana'i in accordance with proposed changes to Section D.2 [(Interconnection).]"<sup>85</sup>

The Consumer Advocate "does not object" to the program cap, "especially considering that the establishment of Hybrid Microgrids is new[.]"<sup>86</sup> No other Parties provided comments on the proposed program cap.

Upon review, the Commission concludes that, at this time, the program cap in the Tariff should be eliminated. The Companies have not shown a compelling reason to limit deployment of microgrids, and the Commission finds no technical basis for a program cap. As such, the Commission is not convinced

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<sup>85</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 12.

<sup>86</sup>Consumer Advocate's February 17, 2021 Comments at 10.

that inclusion of a program cap in the Microgrid Services Tariff is warranted at this time. Thus, under Section I, Hybrid Microgrid Capacity Allocation, the Commission revises paragraph I.2. to eliminate the aggregate program cap, as well as to make one minor proofreading edit, as follows:<sup>87</sup>

2. The Company shall accept Hybrid Microgrid Applications for a period of three years from the effective date of this ~~tariff~~Tariff, ~~or until a program limit based on the aggregated Total Rated Capacity of all Hybrid Microgrids with executed Interconnection Agreements of up to 6 MW on Oahu, 1 MW on Hawaii Island, 1 MW on Maui Island is reached, whichever comes first,~~ or as required by Commission Order.

Concomitantly, the Commission declines to accept the Companies' proposed edits to Section I.2. of the Tariff.

## 6.

### Remaining Sections of the Draft Microgrid Services Tariff

With respect to any other sections of the Draft Microgrid Services Tariff that have not been discussed here, the Commission accepts these sections as submitted by the Working Group on February 1, 2021.

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<sup>87</sup>Deletions are struck through, and insertions are underlined.

B.

Appendix I – Disclosure Checklist – Hybrid Microgrid Services Program, Hybrid Microgrid Operator Disclosure Checklist

The Working Group submitted Appendix I, Disclosure Checklist, Hybrid Microgrid Services Program, Hybrid Microgrid Operator Disclosure Checklist ("Disclosure Checklist"), as Attachment 3 to its February 1, 2021 Transmittal. The Working Group also noted that the Disclosure Checklist was an open item.<sup>88</sup> Here, the Commission discusses proposed modifications and necessary clarifications to the Disclosure Checklist.

1.

Consumer Advocate's Version of Disclosure Checklist Submitted February 10, 2021

As Attachment 1 to the Consumer Advocate's February 10, 2021 Comments, the Consumer Advocate submitted an edited version of Appendix I, Disclosure Checklist ("Disclosure Checklist").<sup>89</sup> The Consumer Advocate explains that after the Working Group filed the Draft Tariff, Disclosure Checklist, and other related attachments on February 1, 2021, "drafts of the [Disclosure Checklist] were exchanged between [the Parties],

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<sup>88</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>89</sup>See Consumer Advocate's February 10, 2021 Comments, Attachment 1.

without reaching consensus.”<sup>90</sup> The Consumer Advocate further explains that its submitted version of the Disclosure Checklist “incorporates several of the parties’ proposed revisions and further refines the checklist consistent with the Commission’s guidance provided at the technical conference on November 30, 2020.”<sup>91</sup> The Consumer Advocate notes, however, that “parties have remaining issues with the Disclosure Checklist and will provide their comments on February 17, 2021.”<sup>92</sup>

In MRC’s February 17, 2021 Comments on the Disclosure Checklist, MRC states they “have now had the opportunity to review the revised Draft Checklist, and unfortunately o[u]r principal concerns have not been addressed.”<sup>93</sup> MRC contends that the Disclosure Checklist “is based in part on misunderstandings of how a hybrid microgrid will work under the Company’s proposed tariff or is likely to work in practice”<sup>94</sup> and, in Exhibit A to MRC’s February 17, 2021 Comments on the Disclosure Checklist,

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<sup>90</sup>Consumer Advocate’s February 10, 2021 Comments at 1.

<sup>91</sup>Consumer Advocate’s February 10, 2021 Comments at 2.

<sup>92</sup>Consumer Advocate’s February 10, 2021 Comments at 2.

<sup>93</sup>MRC’s February 17, 2021 Comments on the Disclosure Checklist at 3.

<sup>94</sup>MRC’s February 17, 2021 Comments on the Disclosure Checklist at 3.



provides specific comments on and suggested revisions to the Disclosure Checklist.<sup>95</sup>

2.

Footnote 2 to the Disclosure Checklist

The Commission noted that footnote 2 to the Disclosure Checklist, as submitted by the Working Group on February 1, 2021, did not have accompanying language and thus issued an Information Request ("IR") to the Parties asking for the missing language.

In their response to PUC-Parties-IR-1, the Companies explained that footnote 2 should state "See Rule No. XX, Order No. XX" and "was meant to reference the Microgrid Services Tariff[,]" which "is yet to be finalized" and for which "the Rule and Order numbers have yet to be assigned."<sup>96</sup> Likewise, the Consumer Advocate explained that footnote 2 "is a placeholder for the Commission's decision and order that approves the Microgrid Services Tariff" and thus footnote 2 will "be revised

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<sup>95</sup>See MRC's February 17, 2021 Comments on the Disclosure Checklist, Exhibit A.

<sup>96</sup>Letter From: K. Katsura To: Commission Re: Docket No. 2018-0163, Instituting a Proceeding to Investigate Establishment of a Microgrid Services Tariff; Responses to Commission Information Request, filed on April 12, 2021, Companies' Response to PUC-Parties-IR-1, at 1.

accordingly as applicable to the Commission's decision and order approving a Microgrid Services Tariff."<sup>97</sup> No other Parties provided a response to PUC-Parties-IR-1.

3.

Commission's Determination on the Disclosure Checklist

After review of the Parties' responses, the Commission accepts the language for footnote 2 provided by the Companies and the Consumer Advocate in their responses to the Commission's IRs.

However, the Commission declines to accept the version of the Disclosure Checklist submitted with the Consumer Advocate's filing on areas of disagreement on February 10, 2021, and the Commission also declines to accept the revisions proposed by MRC. The version of Appendix I, Disclosure Checklist, that was submitted by the Consumer Advocate on February 10, 2021, was not developed and agreed upon by the Working Group after the Consumer Advocate's changes. Instead, the Commission adopts the version of the Disclosure Checklist agreed to and submitted by the Working Group on February 1, 2021, as modified to include the missing language

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<sup>97</sup>"Division of Consumer Advocacy's Responses to the Public Utilities Commis[s]ion's Information Requests to the Parties, Filed on March 29, 2021," filed on April 12, 2021, Consumer Advocate's Response to PUC-PARTIES-IR-1, at 1-2.

accompanying footnote 2 as clarified by the Companies and the Consumer Advocate in their requests to the Commission's IRs.

The Commission notes that, if necessary, the Parties may continue their deliberations on the Disclosure Checklist in the next phase of this proceeding, as set forth below.

C.

Microgrid Participant Bill of Rights

The Disclosure Checklist (Appendix I) submitted by the Working Group in the Working Group's February 1, 2021 Transmittal, references a "Microgrid Participant Bill of Rights."<sup>98</sup>

The Consumer Advocate submitted a draft Microgrid Participant Bill of Rights as Attachment 2 to its February 10, 2021 Comments.<sup>99</sup> The Consumer Advocate notes that the Microgrid Participant Bill of Rights "was originally filed as part of the Consumer Advocate['s] comments on April 27, 2020"<sup>100</sup> and that "it has not received any comments to revise the Microgrid Participant Bill of Rights."<sup>101</sup> In the Consumer Advocate's comments submitted on April 27, 2020, the Consumer Advocate noted "that the

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<sup>98</sup>Working Group's February 1, 2021 Transmittal, Attachment 3 at 2.

<sup>99</sup>Consumer Advocate's February 10, 2021 Comments at 2.

<sup>100</sup>Consumer Advocate's February 10, 2021 Comments at 2.

<sup>101</sup>Consumer Advocate's February 10, 2021 Comments at 2 n.3.

purpose of the Microgrid Participant Bill of Rights is similar to that for the Community-Based Renewable Energy ('CBRE') Subscribers Bill of Rights."<sup>102</sup> In the Consumer Advocate's February 17, 2021 Comments, the Consumer Advocate states that it "continues to strongly support the Hybrid Microgrid Operator Disclosure Checklist and Bill of Rights."<sup>103</sup>

In MRC's February 17, 2021 Comments on the Disclosure Checklist, MRC provides one specific comment on the Bill of Rights: with regard to the statement that "Participants have the right to redress: . . . and to receive compensation for poor services that do not function properly," MRC contends that the Companies do not "compensate customers for 'poor services[,]'" that "[t]his would not be a typical remedy in a PPA[,]" and that participants "have whatever remedies they have at law or in the contract, but this is probably not one of them."<sup>104</sup>

After review of the record, and having considered the related Disclosure Checklist, the Commission accepts as reasonable the Consumer Advocate's proposed Microgrid Participant Bill of Rights. The Commission notes that the provisions in the Consumer Advocate's proposed Microgrid Participant Bill of Rights

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<sup>102</sup>Consumer Advocate's April 27, 2020 Comments at 6.

<sup>103</sup>Consumer Advocate's February 17, 2021 Comments at 8.

<sup>104</sup>MRC's February 17, 2021 Comments on the Disclosure Checklist, Exhibit A at 8 (Microgrid Participant Bill of Rights).

are substantially similar to those in the CBRE Subscribers Bill of Rights developed in Docket No. 2015-0389.<sup>105</sup> Furthermore, the Commission recommends that the Parties re-format the Microgrid Participant Bill of Rights to reduce it to two pages, so as to allow for it to be printed for customers on a single sheet front and back. However, the Commission is open to the Parties revisiting and further discussing MRC's above-noted concerns about the Bill of Rights in the next phase of this proceeding.

D.

Appendix II - Microgrid Services  
Tariff - Hybrid Microgrid Agreement

Here, the Commission reviews the Parties' areas of disagreement with respect to the Hybrid Microgrid Agreement.

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<sup>105</sup>See Docket No. 2015-0389, "Division of Consumer Advocacy's Motion for Clarification of Decision and Order No. 35560," filed on July 10, 2018, Attachment 2 (CBRE Subscribers Bill of Rights); Docket No. 2015-0389, Order No. 37070, "Commencing Phase 2 of the Community-Based Renewable Energy Program," filed on April 9, 2020, at 41 (noting the Commission's "appreciat[ion of] the Consumer Advocate's efforts to educate and protect CBRE subscribers" and deciding that "[r]ather than formally approving the CBRE Subscribers Bill of Rights, the Commission encourages the Consumer Advocate to continue working with the other Parties and Participants, and relevant State agencies, regarding any future changes to the CBRE Subscribers Bill of Rights, and collaborate on any proposed updates, as necessary.").

Section 1, Notice and Disclaimer Regarding  
Future Rate and Tariff Modifications

The Working Group identified this section as an open item.<sup>106</sup> In its comments on areas of disagreement, MRC proposes to include language that it had previously “asked the Company to consider” – namely, “a version of industry standard language (often referred to as a Mobile-Sierra clause) in which the parties agree that they will not seek or support Commission action that would adversely affect the other party’s rights or impose further obligations on the other party *under their party-specific Hybrid Microgrid Agreement once executed*[.]”<sup>107</sup> Specifically, MRC proposed adding language stating: “The Company will not support proposals to change this agreement after its execution or tariff changes that require such a change in this agreement once executed without the agreement of the Microgrid Operator.”<sup>108</sup> MRC asserts that the HECO Companies refused to consider adding this language.<sup>109</sup> MRC asserts that “it is reasonable to ask that

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<sup>106</sup>Working Group’s February 1, 2021 Transmittal at 4.

<sup>107</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9 (italics in original) (citation omitted).

<sup>108</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

<sup>109</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

the Company not . . . attack its own agreements.”<sup>110</sup> MRC also contends that, “[a]s written, Section 1 . . . [i]mposes risks on the microgrid operator that the Company will seek to unilaterally modify its contract with and improperly shift costs to the microgrid operator.”<sup>111</sup> Additionally, MRC “asked that the Company delete or modify the last line of clause (b) which reads, ‘You agree to pay for any costs related to such Commission-ordered modifications’”<sup>112</sup> and argues that such language essentially “defeat[s] the Commission’s jurisdiction as to which party should bear the costs of a Commission decision.”<sup>113</sup>

The Companies and the Consumer Advocate object to addition of this language.<sup>114</sup> In its areas of disagreement, the Companies assert that Section 1 of the Hybrid Microgrid Agreement “contains standard language used in the Companies’ interconnection agreements and should remain consistent.”<sup>115</sup> In its comments in response to MRC, the Companies state that they

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<sup>110</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

<sup>111</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

<sup>112</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

<sup>113</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 9.

<sup>114</sup>Consumer Advocate’s February 17, 2021 Comments at 7; Companies’ February 17, 2021 Response to Parties’ Comments, Attachment A at 9-11.

<sup>115</sup>Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A at 12.

"considered [MRC's] proposal and explained to MRC that the Mobile-Sierra doctrine is a Federal Energy Regulatory Commission ('FERC') doctrine that is not applicable to the Companies."<sup>116</sup>

The Companies also contend that:

[MRC's] proposed language is overly broad, would prohibit the Companies from participating in any other docket and/or tariff that could impact the Hybrid Microgrid Agreement, and the context surrounding the use of the Mobile-Sierra doctrine is factually and fundamentally different from this docket - for example, it applies to FERC contract rates set in arms-length negotiated agreements, not in a non-negotiated tariff setting, and certainly not to every provision in an agreement as MRC suggests.<sup>117</sup>

The Companies argue four main points: (1) that "the Hybrid Microgrid Agreement is **not** a freely negotiated wholesale energy contract entered into by parties enjoying equal bargaining power"; (2) that "the proposed language is overbroad because it seeks to invoke the doctrine to protect the **entire** agreement, including provisions wholly unrelated to an agreed-upon electricity rate"; (3) that MRC is "us[ing] the doctrine as both a shield against any changes to the Hybrid Microgrid Agreement and a sword to flatly prohibit the Companies (and thus impede any assistance to the Commission) from making any changes,

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<sup>116</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 9.

<sup>117</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 9.



beneficial or otherwise, to any tariff that could impact the Hybrid Microgrid Agreement, even if it is in the best interests of the Companies' customers, the State of Hawai'i, or other Microgrid Operators"; and lastly (4) that MRC's proposed language is based on an incorrect understanding of how tariffs are reviewed in Hawaii.<sup>118</sup> With respect to the fourth point, the Companies argue that "the tariff process in Hawai'i . . . makes it impossible for the companies to unilaterally modify a contract" because "[t]ariff changes are approved by the Commission and interested parties will have the opportunity to intervene, participate or comment on the change[,] " and thus, contrary to MRC's claims, "[t]he Companies cannot unilaterally modify their contract . . . ." <sup>119</sup> Thus, the Companies recommend that "the Commission accept Section 1 as provided in the Proposed Tariff[.]" <sup>120</sup>

The Consumer Advocate also argues against inclusion of MRC's proposed language. The Consumer Advocate contends that:

[T]he Mobile-Sierra doctrine . . . relates to the Federal Energy Regulatory Commission ("FERC"), which must presume that an electricity rate set in a freely negotiated wholesale-energy contract meets the "just and reasonable" requirement of the Federal Power Act, and the presumption may be

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<sup>118</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 10-11 (emphases in original).

<sup>119</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 11.

<sup>120</sup>Companies' February 17, 2021 Response to Parties' Comments, Attachment A at 11.

overcome only if FERC concludes that the contract seriously harms the public interest. In this circumstance, there is no separate, "arm's length" agreement dictating the parties' commercial relationship, as the proposed tariff and agreement is being expressly approved by the Commission as meeting the "just, reasonable, and in the interest of the public" standard as part of its normal statutory review.<sup>121</sup>

The Consumer Advocate also "contends that the Companies[] are unable to unilaterally make any changes to the tariffs and that any change would be subject to Commission approval" and that "[w]hen the Companies seek Commission approval to make any changes, other parties will be able to provide their input for Commission consideration before any tariff changes become effective."<sup>122</sup> With respect to MRC's proposal that the last line of clause (b) be deleted or modified, the Consumer Advocate states that it "is concerned that such a deletion or modification could result in other ratepayers bearing the costs that should be borne by the microgrid operator" and "urges the Commission to adhere to the general ratemaking principle that costs should follow the cost-causer . . . ."<sup>123</sup>

Upon review of draft Appendix II and the Parties' positions, the Commission accepts the Working Group's agreed-upon

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<sup>121</sup>Consumer Advocate's February 17, 2021 Comments at 7.

<sup>122</sup>Consumer Advocate's February 17, 2021 Comments at 7.

<sup>123</sup>Consumer Advocate's February 17, 2021 Comments at 8.

language for this section, as submitted in the Working Group's February 1, 2021 Transmittal. Concomitantly, the Commission declines MRC's proposed changes to this section; as such, subparagraph (b) of Section 1 of the Hybrid Microgrid Agreement will retain the language, "You agree to pay for any costs related to such Commission-ordered modification."

## 2.

### Section 2, Term and Termination

With respect to this section, the Working Group identified the proposed term of "five (5) years" as an open item.<sup>124</sup> The Companies explained that "[t]he length of term has been highlighted in Section 2 of the Proposed Hybrid Microgrid Agreement to reflect non-consensus among the Parties" and also "provided redlines to the Proposed Hybrid Microgrid Agreement . . . adopting the Commission's proposed 10-year term."<sup>125</sup>

MRC contends that "[a] five-year term is insufficient for financing a microgrid investment" and suggests that the term instead be at least fifteen years.<sup>126</sup> MRC further asserts that

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<sup>124</sup>Working Group's February 1, 2021 Transmittal at 4; Attachment 2 at 2.

<sup>125</sup>Companies' February 10, 2021 Comments on Areas of Disagreements at 13; Attachment A-2 at 2.

<sup>126</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 9.

"[a] term less than the useful life of the equipment involved will raise questions as to whether the microgrid operator is actually the owner of equipment for tax purposes and may further damage the ability to finance."<sup>127</sup>

In response to MRC's comments on areas of disagreement, the Companies contend that MRC's argument "is a red herring" because "in the Companies' experience[,] many of the tax credit renewable energy power purchase agreements and other similar arrangements are based on a period of well less than 10 years."<sup>128</sup> The Companies explain that they "support the inclusion of a 10-year term, to provide a checkpoint and determine if any changes to the arrangement are needed[,] especially "given the complexities and nascency of third-party Hybrid Microgrids" and the expectation that "the distribution system [will] evolve more dramatically over the next 10 years . . . ."<sup>129</sup>

No other Parties, including the Consumer Advocate, provided comments on this item.

Upon review, the Commission approves the ten-year limit on the term. The Commission notes that the Companies agree with

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<sup>127</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 9.

<sup>128</sup>Companies' February 17, 2021 Response to Parties' Comments at 12 n.28.

<sup>129</sup>Companies' February 17, 2021 Response to Parties' Comments at 12.

the ten-year term proposed by the Commission.<sup>130</sup> As for the rest of Section 2, Term and Termination, the Commission accepts this section as submitted by the Working Group in its February 1, 2021 Transmittal.

3.

Section 13.b.i, Limitation of Liability; Indemnification

The Working Group identified this provision as an open item,<sup>131</sup> and the Companies explained that "a Working Group member may propose additional language to this provision."<sup>132</sup> The Companies assert that this section "is acceptable . . . as currently written in the Working Group's Proposed Hybrid Microgrid Agreement submittal, and no modifications are recommended."<sup>133</sup> MRC states that it "has no further comments on this section."<sup>134</sup> No other Parties, including the Consumer Advocate, submitted comments on or suggested revisions to this provision. After review, the Commission accepts this

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<sup>130</sup>See Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 13; see also Attachment A-2 at 2.

<sup>131</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>132</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 13.

<sup>133</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 13.

<sup>134</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 9.

provision as submitted in the Working Group's February 1, 2021 Transmittal.

4.

Section 22.c, Microgrid Operator Fees

The Working Group identified this section as an open item,<sup>135</sup> and the Companies anticipated that "a Working Group member may propose revisions or comments to this provision."<sup>136</sup> However, no other Parties provided comments on or proposed revisions to this provision. Upon review, the Commission removes this section from Appendix II, Microgrid Services Tariff - Hybrid Microgrid Agreement, as follows:

~~(c) Microgrid Operator Fees. Microgrid Operator shall pay to Company the following fees:~~

- ~~☐ All applicable Interconnection costs, fees and expenses~~
- ~~☐ \$5/kW AC Program Administration Fee (annually), from the Commercial Operations Date~~
- ~~☐ Such other fees as the Commission may establish for the Microgrid Systems Program payable by Microgrid Operator~~

~~Company shall invoice Microgrid Operator for payment to Company of the foregoing fees. Microgrid Operator shall make payment to Company~~

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<sup>135</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>136</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 13.

~~within 30 calendar days of Microgrid Operator's receipt of such invoice~~

5.

Section 22.f, Fair Disclosure; Disclosure Checklist

The Working Group identified this section as an open item.<sup>137</sup> Regarding this section: (1) the Companies, in the their February 10, 2021 Comments on Areas of Disagreements, "note[d] that the Consumer Advocate will be submitting a revision [of the Disclosure Checklist] for the Parties' review"<sup>138</sup>; and (2) MRC states, in its February 10, 2021 Comments on the Draft Tariff, that its members generally "object to the requirement that a participant sign or initial dozens of individual boxes" and that such a requirement "is unduly burdensome."<sup>139</sup>

As discussed above in Section II.B. (Appendix I - Disclosure Checklist - Hybrid Microgrid Services Program, Hybrid Microgrid Operator Disclosure Checklist), the Commission, upon review of the Disclosure Checklist and the Parties' positions, approves the Disclosure Checklist submitted with the Draft Tariff by the Working Group on February 1, 2021,

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<sup>137</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>138</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 14.

<sup>139</sup>MRC's February 10, 2021 Comments on the Draft Tariff at 10.

and concomitantly: (1) declines to accept the version of the Disclosure Checklist submitted with the Consumer Advocate's filing on areas of disagreement on February 10, 2021; and also (2) declines to accept the revisions proposed by MRC. With respect to Section 22.f, "Fair Disclosure; Disclosure Checklist," of the Hybrid Microgrid Agreement, the Commission, upon review, accepts Section 22.f as submitted by the Working Group on February 1, 2021.

6.

Exhibit B, Section 2.1.iii, Security Breach

The Working Group identified this section as an open item.<sup>140</sup> In redlines shared with the Parties on November 27, 2020, the Commission had proposed additional language for this section.<sup>141</sup> The Commission notes that the Working Group declined to adopt the Commission's proposed language. The Companies contend that "the existing Microgrid Agreement is consistent with previously approved Interconnection Agreements (i.e., RDG PPA, CBRE Interconnection Agreement, etc.) that do not have such a

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<sup>140</sup>Working Group's February 1, 2021 Transmittal at 4.

<sup>141</sup>See Commission's November 27, 2020 Proposed Redlines, Appendix II, Exhibit B (Microgrid Operator Owned Generating Facility and Interconnection Facilities), Section 2.1.iii (Security Breach).



reciprocal provision”; that customers are “already protected by the Companies’ Privacy Policy”; and that “‘Security Breach’ as defined in the Proposed Hybrid Microgrid Agreement contemplates a breach of the Hybrid Microgrid or of Microgrid Operator’s systems and not of the Companies’ systems.”<sup>142</sup> MRC states that it “has no comments on this section.”<sup>143</sup> No other Parties provided comments on this section.

Upon review, the Commission accepts Exhibit B, Section 2.1.iii, Security Breach, of the Hybrid Microgrid Agreement as submitted by the Working Group on February 1, 2021.

## 7.

### Exhibit C, Section 2, Microgrid Operator Payment for Company Interconnection Facilities, Review of Hybrid Microgrid, and Review of Verification Testing

The Working Group identified this section as an open item,<sup>144</sup> and the Companies explain that “[t]his Section was . . . highlighted to reflect that the Companies respectfully decline to change the existing 14 calendar day [period]” within which a Microgrid Operator must pay the Total Estimated Interconnection

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<sup>142</sup>Companies’ February 10, 2021 Comments on Areas of Disagreements, Attachment A at 14.

<sup>143</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 10.

<sup>144</sup>Working Group’s February 1, 2021 Transmittal at 4.

Cost after receipt of an invoice,<sup>145</sup> to 30 days, as proposed in the Commission's November 27, 2020 Proposed Redlines.<sup>146</sup> The Draft Tariff submitted with the Working Group's February 1, 2021 Transmittal reflects a 14 calendar day period.<sup>147</sup> The Companies argue that the Tariff should "maintain the requirement for developers to pay invoices in a timely manner, which in this case is 14 calendar days after the developer/operator receives the invoice."<sup>148</sup> The Companies assert that "[t]his 14 calendar day requirement is present in all Interconnection Agreements, and an exception for a Hybrid Microgrid applicant is not warranted."<sup>149</sup>

In contrast, MRC contends that "[i]n the experience of MRC members, 30 days is a typical payment period for commercial obligations" and argues that "[t]he Company has provided no

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<sup>145</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A, at 14-15.

<sup>146</sup>See Commission's November 27, 2020 Proposed Redlines, Appendix II, Exhibit C (Company Interconnection Facilities), Section 2 (Microgrid Operator Payment to Company for Company Interconnection Facilities, Review of Hybrid Microgrid, and Review of Verification Testing).

<sup>147</sup>Working Group's February 1, 2021 Transmittal, Attachment 2 at 36.

<sup>148</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 14.

<sup>149</sup>Companies' February 10, 2021 Comments on Areas of Disagreements, Attachment A at 14-15.

justification as to why it should be entitled to more onerous terms.”<sup>150</sup>

Upon review and after considering the Parties’ positions, the Commission accepts Exhibit C, Section 2 of the Hybrid Microgrid Agreement as submitted by the Working Group on February 1, 2021; thus, the 14 calendar day period by which a Microgrid Operator must pay the Total Estimated Interconnection Cost, following receipt of an invoice from the Company, shall remain as is.

8.

Remainder of Appendix II- Microgrid Services  
Tariff – Hybrid Microgrid Agreement

With respect to any other sections of the Hybrid Microgrid Agreement that have not been discussed here, the Commission accepts these sections as submitted by the Working Group on February 1, 2021.

E.

Modifications to Hawaiian Electric’s DER Rules  
(Rule Nos. 14H, 18, 22, 23, 24, 25, 26, and 27)

In the Commission’s December 10, 2020 Guidance Letter, the Commission noted that “[a]t the [November 30, 2020] Technical

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<sup>150</sup>MRC’s February 10, 2021 Comments on the Draft Tariff at 10.

Conference, the Company reaffirmed its intent to include the Draft Modifications to Rule 24 in all other applicable DER programs.”<sup>151</sup> The Commission directed the Company to “identify all such other applicable DER programs (‘Other Rules’) which are expected to contain redlined language” and further instructed:

[I]f there are any additional modifications that need to be made to Rule 24 and the Other Rules (whether broadly applicable or applicable to only a subset of the Rules), the Commission directs the Parties to provide such additional modifications for both Customer and Hybrid Microgrids for review. The Commission requests that the Parties provide redlined versions of the DER tariffs for the Commission’s review incorporating the modifications, along with any necessary justifications or comments.<sup>152</sup>

In Attachment 5 to the Working Group’s February 1, 2021 Transmittal, the Working Group submitted proposed modifications to Hawaiian Electric’s DER Rules, i.e., Rule No. 14H, Rule No. 18, and Rules No. 22-27, as they apply to Oahu.

In Attachment 6 to the Working Group’s February 1, 2021 Transmittal, the Working Group submitted proposed modifications to Hawaiian Electric’s DER Rules, i.e., Rule No. 14H, Rule No. 18, and Rules No. 22-27, as they apply to Hawaii Island.

In Attachment 7 to the Working Group’s February 1, 2021 Transmittal, the Working Group submitted proposed modifications to

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<sup>151</sup>Commission’s December 10, 2020 Guidance Letter at 6.

<sup>152</sup>Commission’s December 10, 2020 Guidance Letter at 6.

Hawaiian Electric's DER Rules, i.e., Rule No. 14H, Rule No. 18, and Rules No. 22-27, as they apply to Maui County.

Upon review of the Working Group's proposed modifications to the DER Rules, the Commission finds these modifications reasonable. Furthermore, the Commission notes that the proposed modifications to the DER Rules are generally consistent with the Commission's November 27, 2020 proposed redlines to the Companies' Rule 24 modifications.<sup>153</sup>

As such, the Commission accepts the Working Group's proposed modifications to Hawaiian Electric's DER Rules.

### III.

#### NEXT STEPS

##### A.

#### Phase 2

The Commission acknowledges that various issues raised so far in this proceeding have not been fully resolved by the determinations set forth above. These additional topics include, but are not limited to: (1) further discussion needed on MRC's proposed addition to Tariff Section B. (Availability), i.e., paragraph B.4.b and appropriate compensation for services;

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<sup>153</sup>See Commission's November 27, 2020 Proposed Redlines at PDF page 73 (redlines to Hawaiian Electric's Rule 24 modifications adding a new section "MICROGRIDS").

(2) expanding the operation of microgrids to non-emergency situations; and (3) further collaboration on streamlining the Microgrid Services Tariff, including added generation applications. The Commission intends to address these and other related issues in the next phase of this proceeding and intends to issue a subsequent order establishing specific procedural steps to govern review of these issues. The Commission briefly discusses some of these issues below.

Tariff Section E., Billing and Compensation, and related considerations: As discussed above in Section II.A.2, the Commission notes that during the conferences with the Working Group and throughout the Working Group process, it was generally agreed that Customer Microgrids would receive benefits under the prevailing DER programs, whereas Hybrid Microgrids would receive such benefits only when they were transacting with the utility. In its current form, the Draft Tariff does not appear to provide a way for operators of a Hybrid Microgrid to be compensated while in grid-connected mode.<sup>154</sup> MRC's proposed addition to Section B of

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<sup>154</sup>See, e.g., Working Group's February 1, 2021 Transmittal, Attachment 1 at 9 (Section E.2 of the Draft Tariff). See also "Comments of Microgrid Resources Coalition on Hawaiian Electric's Transmittal of a Draft Microgrid Services Tariff," filed on April 27, 2020, at 10-11 (MRC contends that "there is very little incentive for anyone to attempt to undertake development and operation of this version of a hybrid microgrid" as presented in the initial Draft Tariff).

the Draft Tariff (i.e., MRC's proposed paragraph B.4.b) raises a variety of additional benefits-related considerations not resolved here. As such, during the next phase of this proceeding, the Parties should continue further discussion about compensation for operators of a Hybrid Microgrid while in grid-connected mode and about MRC's proposed paragraph B.4.b for the Draft Tariff.

In addition, the Commission acknowledges that there is a range of other possible scenarios and microgrid ownership structures in addition to those that have been contemplated and discussed by the Parties during this proceeding so far, and the Commission is open to continued discussion on these matters. At this juncture, the Commission acknowledges that the process of evaluating and determining appropriate compensation for specific microgrid ownership structures, as well as determinations of eligibility under the Companies' programs, may impact the Commission's administrative efficiency and potentially create administrative burdens for the Commission. The Commission's intention moving forward is to streamline and simplify the process as much as possible.

Expanding the operation of microgrids to non-emergency situations: An initial priority for this proceeding was to reduce the regulatory barriers preventing microgrids from providing

energy to consumers during an outage or emergency event.<sup>155</sup> As such, the Commission did not believe it was necessary to address compensation for microgrids during grid-connected mode or to explore grid services in the initial phase of this proceeding.<sup>156</sup> However, in the next phase of this proceeding, the Commission is interested in further expanding the Tariff to consider the operation of microgrids in non-emergency situations, and grid services should be discussed in the next phase of this proceeding.

Working Group's "Parking Lot" topics: The Commission also acknowledges that during the Working Group meetings, the Working Group identified various topics as "Parking Lot" items for possible additional discussion.<sup>157</sup> As of the last Working Group

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<sup>155</sup>See Order No. 36481 at 48 (stating that "the [C]ommission's initial priority in developing the microgrid services tariff is to facilitate applications of microgrids that improve energy resiliency, particularly the islanding of microgrids during emergency events and grid outages to provide backup power to customers and critical energy uses.") and 53 (identifying "the islanding of a microgrid during emergency conditions and outages to improve resiliency and provide service to customers and subscribers while the utility grid is down" as "the proposed initial focus for this tariff . . . ."). See also Commission's January 16, 2020 Guidance Letter at 2 ("reiterat[ing] that the intent for the initial phase of this proceeding is to establish a tariff that reduces regulatory barriers that may prevent microgrids from providing energy to consumers during an outage or emergency event.").

<sup>156</sup>See, e.g., Commission's January 16, 2020 Guidance Letter at 1.

<sup>157</sup>See Working Group's February 1, 2021 Transmittal, Attachment 4, Exhibit 1 at 20-21 (meeting minutes for



meeting on January 21, 2021, these "Parking Lot" items include those listed below:<sup>158</sup>

- Change of ownership of Microgrid
- Standby Charges or Exit Fees
- Customer protection-related considerations
- Microgrid/IGP procurement considerations
- Considerations of gaming between utility-owned and 3rd-party MGs
- Army/Military MG issues[,], such as [Working Group] will consider nested microgrids, if appropriate
- Interactions with other dockets
  - DER Tariff/Programs
  - IGP Resiliency
- Consideration of societal, environmental value
- Development of PPA model for hybrid MGs
- Other types of microgrids that don't fit Act 200 definition
- Gap in tariff for customers greater than 100kW participation & compensation in non-normal, non-island scenarios. Eg[sic], SIA [Standard Interconnection Agreement]
- Harmonize compensation with other grid service mechanisms
  - Expanded functionality from MG service and whether should be included in MST[]
- Contractual obligations for other grid services
  - Customers with existing DER/DR obligations still need to meet performance if included in a MG[]

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December 21, 2020 Working Group meeting); Exhibit 2 at 30-31 (meeting minutes for January 5, 2021 Working Group meeting); Exhibit 3 at 30 (meeting minutes for January 11, 2021 Working Group meeting); Exhibit 4 at 17-18 (meeting minutes for January 14, 2021 Working Group meeting); Exhibit 5 at 30 (meeting minutes for January 20, 2021 Working Group meeting); and Exhibit 6 at 31-32 (meeting minutes for January 21, 2021 Working Group meeting).

<sup>158</sup>Working Group's February 1, 2021 Transmittal, Attachment 4, Exhibit 6 at 31-32.

- Customer approvals - Does a Hybrid MG need a full customer subscription?
- Resiliency Tariff
- Retail wheeling (see January 16, 2020 Commission Guidance Letter)
- Compensation While Grid Connected (see January 16, 2020 Commission Guidance Letter)

These "Parking Lot" topics might also warrant additional discussion in the next phase of this proceeding.

B.

Natural Energy Laboratory of Hawaii Authority ("NELHA")

Act 200 "recognized [NELHA] as having the potential to operate a microgrid" and further acknowledged that NELHA "may be designated as the first microgrid demonstration project after the establishment of the microgrid services tariff described in section 2 [of Act 200]."<sup>159</sup>

The Commission notes that NELHA recently announced the design and construction of "an advanced microgrid featuring artificial intelligence (AI), advanced photovoltaic (PV) solar panels and battery storage at the Hawai'i Ocean Science and Technology Park (HOST Park) which is administered by the Natural Energy Laboratory of Hawai'i Authority (NELHA)."<sup>160</sup>

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<sup>159</sup>Act 200, Section 4.

<sup>160</sup>"DBEDT News Release[:] Hawai'i Announces Alliance With Republic of Korea to Develop and Build an Advanced Microgrid at the Natural Energy Laboratory

The Commission is encouraged by NELHA's progress in developing a microgrid project, and invites NELHA to review the Hybrid Microgrid Tariff approved herein. The Commission welcomes feedback or alternative proposals in Phase 2, consistent with Act 200.

#### IV.

#### ORDERS

##### THE COMMISSION ORDERS:

1. The Commission accepts the Working Group's proposed Microgrid Services Tariff; Appendix I (Disclosure Checklist); and Appendix II (Microgrid Services Tariff -- Hybrid Microgrid Agreement), submitted as Attachments 1, 3, and 2, respectively, to the Working Group's February 1, 2021 Transmittal, as modified herein. The Commission also accepts the Microgrid Participant Bill of Rights submitted as Attachment 2 to the Consumer Advocate's February 10, 2021 Comments.

2. The Commission accepts the Working Group's proposed modifications to Hawaiian Electric's Rules 14H, 18, 22, 23, 24, 25, 26, and 27, as they apply to Oahu,

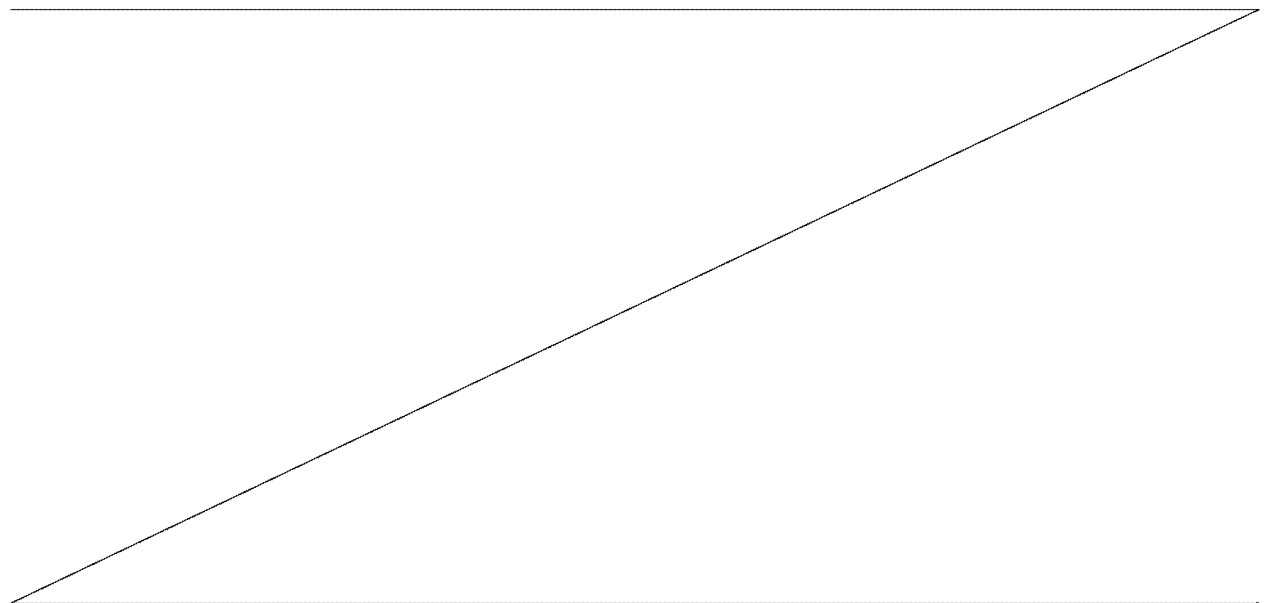
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in Kailua-Kona," dated March 22, 2021, available at: <https://governor.hawaii.gov/newsroom/dbedt-news-release-hawai%CA%BBi-announces-alliance-with-republic-of-korea-to-develop-and-build-an-advanced-microgrid-at-the-natural-energy-laboratory-in-kailua-kona/> (last visited May 14, 2021).

Hawaii Island, and Maui County, and as submitted by the Working Group as Attachments 5, 6, and 7 to the Working Group's February 1, 2021 Transmittal.

3. The Commission directs the Companies to file the Microgrid Services Tariff; Appendix I (Disclosure Checklist); Appendix II (Microgrid Services Tariff -- Hybrid Microgrid Agreement), and Microgrid Participant Bill of Rights, revised consistent with this Decision and Order, no later than ten (10) days from the date of this Order, with an effective date as of the date of filing.

4. The Commission directs the Companies to file their Rules No. 14H, 18, 22, 23, 24, 25, 26, and 27, for Oahu, Hawaii Island, and Maui County, revised consistent with this Decision and Order, no later than ten (10) days from the date of this Order, with an effective date as of the date of filing.



5. The Commission intends to issue a separate order establishing procedural steps to govern the next phase of this proceeding.

DONE at Honolulu, Hawaii MAY 17, 2021.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By James P. Griffin  
James P. Griffin, Chair

By Jennifer M. Potter  
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.  
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Ashley K. L. Agcaoili  
Ashley K. L. Agcaoili  
Commission Counsel

2018-0163.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

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COMMISSION

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